

IC 14-10-2

Chapter 2. Powers and Duties of Commission

IC 14-10-2-1

Powers of commission

Sec. 1. The commission may do the following:

- (1) Take the action that is necessary to enable the state to participate in the programs set forth in 16 U.S.C. 470 et seq.
- (2) Promulgate and maintain a state register of districts, sites, buildings, structures, and objects significant in American or Indiana history, architecture, archeology, and culture and expend money for the purpose of preparing comprehensive statewide historic surveys and plans, in accordance with criteria established by the commission, that comply with the standards and regulations promulgated by the United States Secretary of the Interior for the preservation, acquisition, and development of the properties.
- (3) Establish in accordance with criteria established by the United States Secretary of the Interior a program of matching grants-in-aid to public agencies for projects having as their purpose the preservation for public benefit of properties that are significant in American or Indiana history, architecture, archeology, and culture.
- (4) Accept grants from public and private sources, including those provided under 16 U.S.C. 470 et seq.

As added by P.L.1-1995, SEC.3.

IC 14-10-2-2

Appointment of administrative law judges; division of hearings

Sec. 2. The commission shall appoint administrative law judges. An administrative law judge is subject to IC 4-15-2. A person who is not appointed by the commission may not act as an administrative law judge. The commission may create a division of hearings to assist in performing the functions of this section.

As added by P.L.1-1995, SEC.3.

IC 14-10-2-3

Commission as ultimate authority of department

Sec. 3. Except as provided in IC 14-34-2-2, the commission is the ultimate authority of the department under IC 4-21.5.

As added by P.L.1-1995, SEC.3.

IC 14-10-2-4

Adoption of rules

Sec. 4. (a) The commission shall adopt rules under IC 4-22-2 to carry out the commission's duties under this title.

(b) The commission may adopt rules to exempt an activity from licensing under this title, except:

- (1) IC 14-34;
- (2) IC 14-36-1; and

- (3) IC 14-38-2;
if the activity poses not more than a minimal potential for harm.
- (c) Except as provided in subsection (d), whenever the department or the director has the authority to adopt rules under IC 4-22-2, the commission shall exclusively exercise the authority.
- (d) Emergency rules adopted under section 5 of this chapter shall be adopted by the director.
- As added by P.L.1-1995, SEC.3.*

IC 14-10-2-5

Emergency rules

Sec. 5. (a) The department may adopt emergency rules under IC 4-22-2-37.1 to carry out the duties of the department under the following:

- (1) IC 14-9.
 - (2) This article.
 - (3) IC 14-11.
 - (4) IC 14-12-2.
 - (5) IC 14-14.
 - (6) IC 14-17-3.
 - (7) IC 14-18, except IC 14-18-6 and IC 14-18-8.
 - (8) IC 14-19-1 and IC 14-19-8.
 - (9) IC 14-20-1.
 - (10) IC 14-21.
 - (11) IC 14-22-3, IC 14-22-4, and IC 14-22-5.
 - (12) IC 14-23-1.
 - (13) IC 14-25, except IC 14-25-8-3, IC 14-25-11, and IC 14-25-13.
 - (14) IC 14-26.
 - (15) IC 14-27.
 - (16) IC 14-28.
 - (17) IC 14-29.
 - (18) IC 14-35-1, IC 14-35-2, and IC 14-35-3.
- (b) A rule adopted under subsection (a) expires not later than one (1) year after the rule is accepted for filing by the secretary of state.
- As added by P.L.1-1995, SEC.3. Amended by P.L.186-2003, SEC.34.*

IC 14-10-2-6

Notices of violation

Sec. 6. (a) The commission may issue a notice of violation to a person who violates a law administered by the department for which a misdemeanor or an infraction penalty is established. If the person:

- (1) receives the notice; and
- (2) fails to abate the violation within a period of not less than fifteen (15) days specified in the notice;

the commission may impose a charge that does not exceed the maximum amount that may be assessed by a court for committing the violation.

(b) IC 4-21.5 applies to proceedings by the commission under this section. The department has the burden of proving the alleged

violation by a preponderance of the evidence.

(c) A separate notice of violation may be issued or a separate charge imposed for each day a violation occurs.

(d) The person may establish as an affirmative defense the filing by a prosecuting attorney of a misdemeanor information or infraction complaint based on the same event as that upon which the notice of violation was based. The person has the burden of proving the affirmative defense.

(e) The remedy provided by this section is supplemental to other remedies.

As added by P.L.1-1995, SEC.3.